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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

BRIAN KEITH BRIM,

Defendant and Appellant.

B217696

(Los Angeles County
Super. Ct. No. A454175)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Roger T. Ito, Judge. Affirmed.

Brian Keith Brim, in pro. per.; and William J. Capriola, under appointment by the
Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

* * * * *

Appellant Brian Keith Brim filed his own brief after his counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues.

Appellant is currently imprisoned in a federal penitentiary.

On December 11, 2008, in superior court case No. A454175, appellant filed a pro se document in the Norwalk branch of the Los Angeles Superior Court. He requested a copy of the application and supporting affidavit for a search warrant and arrest warrant from February 25, 1982, over 26 years earlier.

On March 16, 2009, appellant filed another pro se document under the Freedom of Information Act (5 U.S.C. § 552), and the Privacy Act of 1974 (5 U.S.C § 552a). He requested “[a]ll information regarding” (1) a stipulation in case No. A454175 for the appointment of Commissioner Michael Cowell as judge pro tempore in Department SE “E,” and (2) “[a]ny and all documents, records, files, and information regarding Case No. A454175, in [Department] SE ‘E.’” He indicated that the requested information would “consist of the dates from February 25, 1982 to the PRESENT DATE, and including up til August 31, 1982 [*sic*].” (Underscoring omitted.)

On March 23, 2009, appellant filed another document, entitled “CLERICAL ERROR ON CASE NO. A-454175.” We quote that document verbatim.

“Brian K. Brim, (Petitioner) in full pro-se capacity moves this court to correct the invalid case and warrant number A-454175.

“On February 25, 1982, at 6:00p.m., the petitioner was arrested at 1924 East 110th Street, Los Angeles, California 90059 by the Huntington Park Police Department [(the department)]. The Officer’s had a Search Warrant, based on a controlled drug buy from that location earlier in that day.

“I am trying to have my custody classification level lowered to further my education, and to continue my rehabilitation. My Unit Case Manager at FCC Victorville Institution informed me that this number was invalid for this case and it’s stopping my progress as of now.

“Can you please correct this error, so that I can finish my education, and rehabilitation while I’m at this prison.”

The document filed on March 23, 2009, included a copy of the first page of the probation report prepared for appellant's sentencing hearing in August 1982. That report shows the same superior court case No. A454175. It indicates that appellant was charged in count 1 with possession of phencyclidine for sale, plus an enhancement allegation under Penal Code section 1203.07, subdivision (a)(4). In count 2, appellant was charged with the sale of phencyclidine. He pled guilty to count 1 and the special allegation. Count 2 was continued to the date of sentencing.

On March 27, 2009, the superior court denied the request for reproduction of court files and records, because appellant had previously requested and received a copy of the entire file in October 2002. It ordered that a copy of the minute order of October 21, 2002, be sent to appellant. The court also denied the request to correct the case and warrant number, on the ground the case number was valid.

A copy of the October 21, 2002 minute order is attached to appellant's pro se supplemental brief. We quote it verbatim. "Defendant's ex-parte motion for public records or written admission pursuant to sections 1005, 1006, 1007 Evidence Code is granted. The court orders that the defendant be sent a copy of his probation and sentencing report plus a copy of the *Tahl* waivers. [(*In re Tahl* (1969) 1 Cal.3d 122.)] The court finds that we don't have a copy of the search warrant because it was filed in the case file. [*Sic.*]"

On April 16, 2009, the court received appellant's notice of appeal.

In the pro se supplemental brief appellant has filed with this court, and the documents attached to it, appellant shows that he tried unsuccessfully in 2009 to obtain copies of the 1982 application and affidavit for the warrants. The department told him via letter that (a) it uses different case numbers than the superior court case numbers, (b) appellant provided the superior court case number, and not the department's case number, and (c) due to a malfunction in its previous computer system, the department cannot provide records prior to August 1, 1999, without its own case number.

Appellant's pro se supplemental brief argues that his inability to obtain the 1982 application and affidavit for the warrants establishes that the warrants were never issued

and the police officers misled the court. The argument is devoid of merit. The problems with obtaining documents from 1982, after the passage of many years, do not mean the documents never existed.

In checking the superior court file, we did not find the warrants in question, but we found booking No. 651799, for appellant's arrest by the department on February 25, 1982. That booking number may assist appellant with his records search. In any event, however, we are satisfied from our review of the record that appellant's counsel has fully complied with his responsibilities, and no arguable issues exist on appeal. (*Smith v. Robbins* (2000) 528 U.S. 259, 276; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124; *Wende, supra*, 25 Cal.3d at p. 441.)

DISPOSITION

The judgment is affirmed.

FLIER, J.

We concur:

BIGELOW, P. J.

GRIMES, J.